



புதுச்சேரி மாநில அரசிதழ்

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பொருளடக்கம்

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GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

(G.O. Rt. No. 34/Lab./AIL/T/2020,
Puducherry, dated 4th March 2020)

NOTIFICATION

Whereas, an Award in I.D (L) No. 11/2015, dated 26-11-2019 of the Industrial Tribunal-cum-Labour Court,, Puducherry, in respect of the industrial dispute between the management of M/s. Pondicherry Institute of Medical Sciences, Kalapet, Puducherry and Ilanthalaivar Ragul Gandhi PIMS Technical and Non-Technical Staff Welfare Union, Periyakalpet, Puducherry, over reversion of promotion to Union workman Thiru S. Doureradjou, has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-05-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,

Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL AT
PUDUCHERRY**

Present: Thiru V. PANDIARAJ, B.Sc., LL.M.,
Presiding Officer.

Tuesday, the 26th day of November 2019.

I.D. (L) No. 11/2015

Ilanthalaivar Ragul Gandhi PIMS
Technical and Non-Technical
Staff Welfare Union,
Having Office at No. 110,
Murugan Koil Street,
Periakalpet,
Puducherry.
Rep. by its President and Secretary

. . Petitioner

Versus

The Director,
Pondicherry Institute of Medical Sciences,
Ganapathychettikulam, Kalapet,
Puducherry.
. . Respondent

AWARD

This Industrial Dispute coming on 17-10-2019 before me for final hearing in the presence of Thiru R.T. Shankar, Counsel for the petitioner, and Thiru L. Sathisb, Counsel for the respondent, up on hearing, up on perusing the case records, after having stood over for consideration till this day, this Court passed the following:

1. This Industrial Dispute has been referred by the Government as per the G.O. Rt. No. 20/AIL/Lab./J/2015, dated 17-03-2015 for adjudicating the following:-

(a) Whether the dispute raised by the PIMS Technical Staff Welfare Union against the management of M/s. Pondicherry Institute of Medical Sciences, Puducherry, over reversion order, dated 05-10-2013 issued to Thiru S. Doureradjou from the post of Supervisor to Diesel Generator Set Operator is illegal or justified? If justified, what relief the Union is entitled to?

(b) Whether the management adopts unfair labour practice against the Union Vice-President Thiru S. Doureradjou for his Union activities?

(c) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. *The brief averment of the petition filed by the petitioner:-*

(i) The petitioner was appointed as Diesel Generator Set Operator on 02-12-2002 and the said post was confirmed on 05-02-2010. The respondent has recovered ESI, PF contributions from this petitioner's salary. This petitioner was very active in Trade Union activities and he has functioned as Joint Secretary in PIMS CITUC and also in PIMS Technical Staff Welfare Union as Vice-President and he has participated in all over settlement talks for workers in salary, bonus, promotion, etc., between the respondent management and the Union. During the 2009 this petitioner has disclosed the drunken condition of the Electrical Engineer, Mr. Rajakumara Reddy and his quarrel with AC Mechanic by name Mr. Kathamuthu to the respondent management. This petitioner approached the management on 10-06-2009 for fixation of the date for salary settlement, but, the management with an ulterior motive to punish him, has issued a charge memo dated 10-06-2009 to this petitioner. The Tamil version of the same was not given to this petitioner. This petitioner has academic qualifications of 10th, 12th, ITI and D.E.E. Further, he had Technical Apprenticeship training in various institutions such as, Cummins Diesel Sales and Service India Limited, Pune, Bharath Diesel Sales

and Service, Indial Oil Corporation Limited, Anand Automobile and the Supreme Industries Limited. Though he has sufficient academic and Technical Qualifications he was neglected by the respondent management in giving promotion. Further, this petitioner has deposed and disclosed truth to save one Mr. Ubendiran, Ward Boy of the respondent management in an industrial dispute case against the management in the year 2011. On 06-07-2011, this petitioner has given a letter to the Chief Engineer, PIMS, seeking promotion for him as he has sufficient academic and technical qualifications and therefore, he has been promoted from the rank of Grade-III Diesel Generator Set Operator to the rank of Grade-II Diesel Generator Set Operator on 22-08-2011.

(ii) This petitioner has made several oral and written representations to the Engineers by name, Mr. Rajakumara Reddy, (Electrical Engineer), Mr. Alex Mathew, (Maintenance Engineer), for the promotion and for the benefits of the workers on various dates such as 06-07-2011, 26-12-2011 and 07-02-2012, but, they have not taken any suitable steps for the promotion of the rightful and well qualified persons. Instead of that, they have promoted unqualified persons and they have also increased their salaries. Further, the abovesaid Engineers had illegally disclosed the letters addressed to the higher authorities by this petitioner, to the other workers, which resulted in life threat through intercom by the unknown workers to this petitioner. Therefore, this petitioner gave letter to the Welfare Officer, PIMS, on 20-04-2012 to solve the abovesaid problem, but, it ends in vain. Again this petitioner gave two letters to the Welfare Officer, PIMS, on 14-05-2012, seeking action against the abovesaid Engineers and also for his promotion, but, it also ends in vain. Thereafter, this petitioner approached the Pondicherry Lok Adalat on 23-05-2012 for his promotion and thereafter, the management had promoted this petitioner as Supervisor-DG Set Operator by its order, dated 04-06-2012 wherein six months period was fixed as probation period. Therefore, this petitioner has not pressed the LAC No.1828/2012 on the file of the Hon'ble Lok Adalat, Pondicherry, on 22-06-2012. Thereafter, this petitioner gave a complaint before the Conciliation Officer on 06-06-2012 for his enhanced salary and for arrears of salary of Grade-II DG Set Operator. In the meanwhile, the respondent management had promoted six unqualified and technically unsound persons as Supervisor by its circular order, dated 19-07-2012. On 06-08-2012, the petitioner gave a letter to the

Chief Engineer, to grant weekly leave on Sundays. On 09-08-2012, this respondent has issued a circular order for training programme and for supply of uniforms to all the Supervisor promotees including this petitioner.

(iii) The respondent management had stealthily issued a circular order, dated 19-07-2012, wherein, the promotion of the other six supervisors were confirmed, but, this petitioner's promotion was not confirmed, as he has given several letters for taking action against the illegal activities of the Engineers in the Engineering Section. On 21-12-2012, this petitioner's Union alone not accepted the 12 (3) settlement, but, the other five Unions accepted the same. Though the petitioner has given so many letters regarding the illegal activities of the Engineers, the respondent management has not come forward to take action on the basis of the letters given by this petitioner. Whereas, it has issued a notice, dated 05-01-2013 to all the Head of the Department, Trade Union stating that without permission no workers should leave the working spot, sleep in the working time else. It has warned that such activities will be subjected to disciplinary action and for wage cut. This petitioner has got Best Worker Award on 21-01-2013 only after filing a request letter and after hard struggling. The respondent management has extended the probation period of this petitioner for further period of three months by its letter 03-05-2013. In the meanwhile, this petitioner have filed an application seeking permission to meet the respondent Principal on 06-06-2013, but, it also ends in vain. So, this petitioner was not able to brought to the knowledge of the Principal, regarding the life threat given by the unskilled Electrical/co-worker by name Mr. Manjini. Further, this petitioner has made complaint regarding the Electrical Engineer, Mr. Rajakumar Reddy to the Personal Manager on 21-06-2013, but, he failed to take any action against him. In the mean time, his probation period was further, extended for a period of another three months by the management by its office order, dated 05-09-2013 and this petitioner has given his reply on 12-09-2013, for the office order, dated 05-09-2013, wherein, he has requested to take action against the Personal Manager by name Mr. Ralph Mathew, Chief Engineer, by name, Mr. Subramani, Maintenance Engineer by name, Alex Mathew and Electrical Engineer by name Mr. Rajakumar Reddy. But, it was also ended in vain. After that in this regard, this petitioner and 21 other employees gave a complaint letter on 23-09-2013 to the Principal for necessary action against the Engineers and Personal Manager for their malpractices, but, it was also ended in vain.

Due to that impact the respondent management has issued a memo, dated 05-10-2013 stating that this petitioner has been reverted back to his original post of D.G. Set Operator and therefore, this petitioner has issued a Legal notice on 03-01-2014 through his Counsel to the Chairman, Chief Administrator, Personal Manager and Chief Engineer of the respondent management. He has also demanded Supervisor Post with retrospective effect and benefits. The respondent management has issued its reply letter on 13-01-2014 with the intention to save the culprits. Again this petitioner gave letter to the Personal Manager on 24-02-2014 for confirmation of his Supervisor Post. He has also given a letter on 02-05-2014 regarding the life threat made by unknown persons. He has sent a complaint on 12-05-2014 regarding the disobedience, late coming of Mr. Vasanth, (Technician) and Mr. Tuennarasu (DG Set Operator), but no action was taken against them. As the management has failed to confirm his Supervisor Post even after repeated request, this petitioner made a representation before the Conciliation Officer on 01-04-2014 through PIMS Technical Staff Welfare Union. The management has filed his objection on 19-04-2014 with false allegations with ulterior motive. The reply was given by this petitioner on 09-06-2014. Due to the adamant attitude of the respondent management authorities, the conciliation proceedings ended in failure. Thereafter, the management has issued a memo, dated 03-09-2014, having seven baseless charges against this petitioner with ulterior motive. The Tamil version of the memo, dated 01-10-2014 was given to this petitioner on 04-10-2014. This petitioner gave the explanation on 15-10-2014 with all necessary evidences in the booklet format. Again on 01-12-2014 this petitioner made a complaint regarding the life threat to the Senior Electrical Engineer (Operation and Maintenance). It also ended in vain. Similarly, there was no action taken on the complaint, dated 09-02-2015 given by the Electrician by name Mr. Gurunathan, regarding the illegal break open of lock and door. In the mean time, the respondent management has taken its vindictive action against this petitioner by appointing Domestic Enquiry Panel with the Advocates K. Ilango and U. Mohan Ilayaraja. The material Manager of PIMS by name Mr. Adaikala Yesuraj was in the Panel. The Enquiry Notice, dated 23-12-2014 was served to this petitioner on 26-12-2014, wherein, the enquiry was scheduled to be conducted on 27-12-2014. This petitioner has made objection regarding the short duration. This petitioner was not permitted to take the legal Assistance of his lawyer or co-worker. So, many material evidences were not recorded in the

deposition of Mr. Ralph Mathew. This petitioner was not permitted to examine any witnesses on his side and the copy of the proceedings were also not furnished to this petitioner. Copy of the depositions were not granted to this petitioner. In the mean time, this petitioner has issued a letter, dated 23-03-2015 to the Enquiry Officer, by name, Mr. Ilango seeking the information regarding the further examination date. But, no reply was given by them. In the meanwhile, the respondent has issued memo dated 31-03-2015 to this petitioner and other workers on the basis of the earlier memo, dated 03-09-2014. The report of the Enquiry Officer is not acceptable as the enquiry was conducted within the short duration *i.e.*, from 27-12-2014 to 13-01-2015. The report is not acceptable as the date of enquiry was not intimated. Further, the details of the persons examined, details of the deposition and report of the enquiry were not furnished to this petitioner.

(iv) This petitioner has rendered unblemished service from 02-12-2002. He was fully qualified in academic and technical. Hence, the reversion from the Supervisor Post to DG Set Operator was illegal. Since, this petitioner is a protected workman, his service condition cannot be altered and the reversion is nothing but the crystal clear action of victimization. He has been reverted as he has informed the illegal activities of the co-workers and the engineers to the management. As this petitioner Union was against the 12(3) settlement (wage revision), this respondent has reverted this petitioner from supervisor D.G. Set Operation to Grade-II D.G. Set Operator as a punitive measure. As this petitioner has enlighten the malpractices, misappropriation of copper transformer and copper wires to the tune of several Lakhs in the Maintenance Department, he was victimized and reverted to the Grade-II D.G. Set Operator under the guise of appraisal report. No such appraisal report was received for other Supervisor promotees. The other six supervisor promotees were promoted and confirmed on the date of their promotion itself *i.e.*, on 19-07-2014 itself. Even as per appraisal rating he has scored 68.15% which was made during his extension of probation period on 05-09-2013. The respondent management doesn't follow the correct rating systems. The appraisal rating is not proper and sincere one. The appraisal report was obtained with the help of the abovesaid Engineers against whom this petitioner has made several complaints. The non-satisfaction report of the management is nothing but, a *malafide* activity. It was a colourable exercise done against this petitioner with vindictive intention and planning. Hence, the reversion order

has to be set aside and the petitioner has to be reinstated in the post of Supervisor D.G. Set Operator with effect from 04-06-2012 with increased wages and all other attended benefits and hence this petition has to be allowed.

3. *The brief averment of the counter filed by the respondent:-*

(i) The respondent denied all the allegations mentioned in the claim petition as false and baseless and those allegations were made only for the purpose of this case and it has to be proved by this petitioner strictly. This industrial dispute raised by this petitioner suffers from various legal lacunae and infirmities and hence, it becomes fit of dismissal. This petitioner has stated himself as Supervisor DG Set operator. Therefore, he has no right to file this Industrial dispute as a workman before this Court/Tribunal. The reference made by the Government of Puducherry to this Labour Court is not maintainable as the reference itself is relating to promotion, which comes under the category of gradation and which ought to be referred to the industrial dispute alone. The matter of promotion/regularization is not a right, but, it is a matter of policy of every establishment. In the matter of promotion will depend up on various criteria's set forth by the establishment. The worker can make a claim for consideration for promotion and he cannot make a claim for promotion as a matter of right. Hence, the claim of this petitioner became unfit to allow. Initially, this petitioner was promoted as D.G. Set Operator Grade-II from D.G. Set Operator Grade-III on 22-08-2011 and then within a short span of one year *i.e.*, on 04-06-2012 he has been promoted as Supervisor D.G. Set Operator on probation. In the order, dated 04-06-2012 the respondent has specifically mentioned the following conditions;

“The probation period may also be extended depending up on your performance during the said period. Unless confirmed in writing, he will continue to be on probation. On successful completion of the probation period as decided by the Management, he will be confirmed in the post of Supervisor-D.G. Set Operator with revision of salary appropriate to the Post. The management keeps its options open to revert him to his original post if not found, suitable for the post”.

(ii) This petitioner received the order, dated 04-06-2012 within specific terms and conditions on 05-09-2012 wherein, the original period of probation was fixed as six months. The Supervisor must have following multi-tasking abilities such as

“(a) good communication skills; (b) maintaining cordial relationship with subordinates and higher officials; (c) ability to extract optimum results from subordinates and commanding their respect; (d) handling workers with patience and compassion, without compromising on discipline and punctuality; (e) being impartial and neutral to all workers; (f) escalating genuine needs and demands of subordinates to management and extracting maximum productivity from the workers; (g) exhibiting knowledge skill and expertise on the technical aspects of the job; (f) being a good leader by leading from the front”.

(iii) The petitioner has failed to complete his probation period to the satisfaction of this respondent, hence, it was extended for a period of 3 months from 29-04-2013 *vide* its order, dated 03-05-2013, wherein, it is specifically stated that if, he does not perform to the required level of respondent, he would not be confirmed to the post of Supervisor and he has been informed that he has to reach the adequate rating with remarks “Needs improvement in inter personal relationship”. Attitude is still that of a D.G. Set Operator. Even then this petitioner has not exhibit any qualities as a Supervisor, he behaved like a workman alone and he was not able to maintain cordial relationship with his superiors, colleagues and juniors. Therefore, he was not considered for a post of Supervisor, though he had found to be good with respect to his work, dependability, initiatives, adaptability, dress code, attendance and safety. He has no good remarks with respect to team work, leadership, ability to give guidance to the subordinates, planning, cooperation with others and he was not found to be a good example for others. Therefore, a further chance was given this petitioner to improve his quality and attitude towards the post of Supervisor by extending his probation period for another three months *vide* its Office Order, dated 05-09-2013. It contains the entire facts and it was received by him. Even then this petitioner has not performed his duty as a Supervisor up to the satisfaction of the respondent management, as he has not completed his probation period to the subjective satisfaction of the respondent, the management was not able to confirm his post as Supervisor D.G. Set Operator and hence, a memo, dated 05-10-2013 was issued to this petitioner stating that he shall continue to discharge his service as D.G. Set Operator Grade-II. It was not a demotion in the position. It was only a natural corollary of his failure to complete his probation successfully. The respondent has taken this decision on Sound Administrative Principles and ethos and based on

the systematic appraisal of work and ethics. The appraisal was done by the qualified superiors of the office. This petitioner cannot raise any dispute in this regard and there is no chance for judicial review without any proof of gross injustice and victimization. This petitioner is a man of controversies. He has made so many complaints against the superiors, colleagues and juniors. He had aggressive and belligerent attitude towards the management, his co-workers and he was a habitual man of lodging complaints after complaints which were ultimately found to be false or bogus with distorted versions. The respondent has taken necessary actions and steps based on his complaints. Further, it has appointed a fact finding Committee with two Advocates and with senior staffs of the respondent management. The Committee has filed its impartial enquiry report on 14-02-2015 where it has found fault on this petitioner also. Furthermore, it has found partial truth in the complaint raised by this petitioner; the respondent management has taken necessary steps and issued show cause notice to all concerned in order to rectify the defects and in order to prevent the unwarranted activities.

(iv) This petitioner was never subjected to victimization for his Trade Union activities and such all the allegations were denied as false. Though he was given, maximum possible opportunities to improve his skills, he failed to achieve it, instead he has continuously lodged so many complaints against others as a habitual complainant and it could be seen from the claim statement itself. Totally six Unions are in the factory and this petitioner union is having only a handful of workers alone. The respondent management has received so many complaints against this petitioner from various corners regarding these controversies. Even then, the respondent management has acted in a neutral manner only. This petitioner is totally incompatible, incompetent and unfit to discharge functions as Supervisor, all these factors played a crucial role in not considering this petitioner for the confirmation of the abovesaid post and for appraisal rating. The respondent management never ever adopted biased activity in the case of promotion to others as alleged in the petition. The allegations that there was no appraisal for other candidates are false and irresponsible statements of this petitioner. The respondent management has followed a sound and uniform policy for considering promotions for all its employees in each and every promotion. The promotion was carried out only on the basis of appraisal report given by the superior officers of the department. The petitioner was not a

protected workman under the Industrial Dispute Act. Furthermore, there is no necessity to lend such privilege to this petitioner and hence, this petition has to be dismissed.

4. On the side of the petitioner two witnesses were examined and Ex.P1 to Ex.P73 were marked. On the side of the respondent only one witness was examined and Ex.R1 to R12 were marked.

5. The petitioner side Counsel argued that the reference made by the Government of Puducherry to this Court is proper and valid and this Court is having sufficient power as it was entrusted with Tribunal Power also. Merely, numbering the case ID(L) instead of ID(T) is not a ground for dismissal of this application. It is argued that this petitioner has joined the respondent hospital on 02-12-2012 and he has rendered unblemished service and therefore, he has been promoted as D.G. Set Operator Grade-II from D.G. Set Operator Grade-III. It is further argued that this petitioner was very much active in Union activities and he has enlightened so many malpractices that happened in the Electrical Engineering section to the knowledge of the higher authorities of the respondent management, as a result, of which the respondent management failed to give the confirmation order to this petitioner in the post of Supervisor D.G. Set Operation with the intention of victimization. It is further argued that though he was promoted as supervisor D.G. Set Operator he was not entrusted with duties to perform in that post, rather, he was reverted back to his original position as per the order dated 05-10-2013 as a vindictive measure. It is further argued that the appraisal rating was performed in a biased manner with an intention to depromote this petitioner and no such appraisal rating was carried out with respect to other supervisors of respondent management. It is further argued that though this petitioner was technically and academically qualified for the abovesaid Supervisor post, it has been denied to this petitioner by the respondent management with victimizing intention. It is further argued that as per the appraisal rating he has scored 68.15% which is more than that of the required rating. It is further argued that this petitioner has rendered more than 15 years of unblemished service and he has been depromoted without any valid reasons and the complaints against this petitioner are all created for the purpose of this case and they were not related to the period of his promotion and hence, Ex.R5 to R12 marked on the side of the respondent has to be rejected as they were created with *mala fide* intention and with after thought. It is argued that the post of Supervisor D.G. Set Operator cannot be abolished without the approval of the Director/Principal and hence, the plea of abolition of the

abovesaid post has to be rejected in total and therefore, he has to be permitted to work as Supervisor D.G. Set Operator from 05-10-2013 and necessary monetary benefits for the above saidpost has to be given to this petitioner and hence, he prayed to allow this application.

6. The respondent side Counsel argued that this petitioner was promoted as D.G. Set Operator Grade-II from D.G. Set Operator Grade-III on 22-08-2011 and thereafter, he has been promoted as Supervisor D.G. Set Operator on probation on 04-06-2012 *i.e.*, within nine months he has been promoted as Supervisor1 D.G. Set Operator and therefore, the argument of victimization cannot be taken as correct. It is further argued that there is no Supervisor post exists in Electrical Section, even then the respondent management has given such promotion to this petitioner on his repeated request and demand. It is further argued that the petitioner was not able complete the probation period as Supervisor D.G. Set Operator and he hence, has been reverted back to his original position. It is further argued that he has been reverted back only, after the appraisal of the performance of this petitioner, by highly qualified and neutralized high authorities only. It is further argued that the next promoted post to the D.G. Set Operator is nothing but, Engineer and no higher or lower post is available in the D.G. Set Operator Section. It is further argued that nobody was promoted as Supervisor D.G. Set Operator except this petitioner, even then this petitioner was unable to save his promotion as Supervisor D.G. Set Operator by performing up to the satisfaction of the respondent management. It is further argued that the D.G. Set Operator Grade-II was not at all grant to other four D.G. Set Operators. It is further argued that no such post of Supervisor D.G. Set Operator is kept pending as vacant in the respondent management and the abovesaid post was abolished as there is no necessary for such posts. The respondent side Counsel argued that promotion cannot be claimed as a matter of right and this petitioner cannot question the appraisal rating before this Court unless is *mala fide* and this Court has no power to weigh the appraisal rating. It is further argued that the petitioner failed to prove that the respondent management acted in *mala fied* manner in his case. It is further argued that promotion is a matter of policy and this Court is having no power to interfere in it and at the best it can give a direction to consider petitioner for the same. It is further argued that initially this petitioner was promoted as Supervisor D.G. Set Operator on 04-06-2012 with six months probation period, but he has not completed it successfully and therefore, he was again given a chance to complete his probation period in a successful manner up to the satisfaction of the management by extending the probation period for another 3 months from

29-04-2013. Even then this petitioner has not completed his probation period in a successful manner up to the satisfaction of the management. Again the probation period was extended for another three months as per the order, dated 05-09-2013, but this petitioner has failed to complete his probation period in a successful manner. Therefore, after rating his performance in the probation period he has been reverted back to his original position as per order, dated 05-10-2013, though this petitioner has made several complaints against the Superiors, colleagues and juniors and it was not taken for consideration and he has been appraised by the expert team in a proper manner in the proper format. It is further argued that the reference itself is defective and hence, it has to be dismissed for the same. It is further argued that even as per the complaints made by this petitioner, this Court can come to the conclusion that he has not having capacity to act as a Supervisor and he has no good relationship with others and hence, prayed for dismissal of this application.

7. *Points for consideration:*

Whether the dispute raised by this petitioner against the respondent management over his reversion order, dated 05-10-2013 from the post of Supervisor to Diesel Generator Set Operator is justified or not? and if justified what is the relief that he was entitled for?

8. *On the point:*

The petitioner was originally posted as Grade-III D.G. Set Operator and thereafter, he has been promoted as Grade-II D.G. Set operator on 22-08-2011 and thereafter, he has been promoted Supervisor D.G. Set Operator (probation) on 04-06-2012 are the facts admitted on both sides.

9. This petitioner has been reverted back to this original position as per the order of the management, dated 05-10-2013, was challenged by this petitioner before this forum, on the ground that it was a *mala fide* and victimization Act done by the management. *Per contra*, the management has pleaded that such allegation was not true, arid his reversion was on sound principle of appraisal rating.

10. This petitioner/PW2 has pleaded and deposed that he has been promoted as Supervisor D.G. Set Operator on 04-06-2012. To that effect, Ex.P25 was marked. He has deposed that his promotion order, dated 04-06-2012 was served to him belatedly on 05-09-2012 with *mala fide* intention of delaying tactics. But, on perusal of Ex.P25 it is found that the date of receipt of the order is not mentioned as 05-09-2012.

Hence, the allegation of late supply of promotion order found to be baseless, PW.2 has deposed that six months probation period was fixed to this petitioner alone and it was fixed with *mala fide* intention and no such probation period was fixed for other Supervisor promotees. *Per contra*, RW.1 has deposed that the probation period was fixed as a routine manner and it was not fixed only against this petitioner as alleged by the petitioner. To that effect he has produced Ex.R1, which is the document containing the service rules wherein page No. 6 under the head confirmation it is stated that all appointees shall be on probation for a period of one year except where otherwise specified. Further, it has been stated that the period may be extended by a further period not exceeding six months at the discretion of the management. Hence, it seems that the probation period was not fixed in a biased manner as alleged by the petitioner, whereas, it has been fixed by the management as per the service rule alone. The petitioner/PW.2 has deposed that he has rendered his service as Supervisor D.G. Set Operator in an appreciated manner by all others. But, for this aspect also he has not produced any supporting documents or evidences. PW.2 has deposed that the management was willing to give Supervisor post to this petitioner but, due to the vengeance, the engineers in electrical section, has prevented it by misusing their power and also by adopting Ruse and tactic methods, as this petitioner has made allegation against them before the higher authorities. But, in this aspect also this petitioner has not filed any supporting documents to show their ruse and misuse of powers. Further, he has deposed that the engineers has given false information to the management and thereby prevented his promotion, but, no useful documentary evidences are produced in this regard. Hence, the bald allegation raised against the Electrical Engineers, that they had acted in a ruse and biased manner was not proved by this petitioner. *Per contra*, RW.1 has deposed that the petitioner failed to complete his probatioa period to the subjective satisfaction of the superior officers and hence, his probation period was extended twice for another three months vide its order, dated 29-04-2013 and 05-09-2013, for further, evaluation with specific remarks and it was initiated to this petitioner that if, he doesn't perform to the required level of the institution he would not be confirmed to the post of Supervisor, In this regard, RW.1 has marked orders, dated 04-06-2012, 29-04-2013 and 05-09-2013 and it has been marked as Ex.P25, P37 and Ex.P40. On perusal of Ex.P25 dated 04-06-2012 it would goes to shows that this petitioner was promoted as Supervisor D.G. Set Operator on probation and he has been placed under probation for a period of six months, further, he was assigned with specific supervisory works.

Further, Ex.P25 would goes to shows that this petitioner's promotion was subject to confirmation in writing until then he has to continue his probation period and it has also goes to shows that the management will confirm his post of Supervisor D.G. Set Operator after the successful completion of the probation period. Similarly, on perusal of Ex.P37 dated 29-04-2013, it would goes to shows that this petitioner has failed to complete his probation period to the satisfaction of the management and hence, it has been extended for a further, period of three months from 29-04-2013, wherein, also it has been specifically mentioned he will be evaluated and bis performance must be up to the required level and otherwise he will be reverted back to the post of D.G. Set Operator. Similarly, on perusal of Ex.P40 dated 05-09-2013, it is found that this petitioner needs improvement in inter personal relationship and his attitude is still that of D.G. Set Operator. It has also mentioned that as per the appraisal rating he has scored 68.15% only. The 2nd to 6th para of the document runs as follows:

"The probation period may also be extended depending up on your performance during the said period. Unless confirmed in writing, he will continue to be on probation. On successful completion of the probation period as decided by the Management, he will be confirmed in the post of Supervisor-D.G. Set Operator with revision of salary appropriate to the post. The Management keeps its options open to revert him to his original post if, not found suitable for the post".

"However, as he failed to complete his probation to the satisfaction of the management, the probation period was extended for three months from 29-04-2013 for further, evaluation with the specific remark that if, he does not perform to the required level he would be reverted to the post of D.G. Set Operator. He had obtained only adequate rating with the remarks: "Needs improvement in inter personal relationship. Attitude is still that of a D.G. Set Operator".

"Mr. S. Doureradjou has presently completed his extended period of probation from 29-04-2013 and as per his Appraisal Rating he has obtained 68.15% with the remarks- "He does not exhibit any qualities of a Supervisor. His behavior and thinking is only as a workman. He does not have any cordial relations with the superiors and also most of his colleagues are against him because of his attitude and hence cannot be considered for supervisor post".

"From the performance report Mr. Doureradjou is found to be good in his work, dependability, communication, initiatives, adaptability, dress code,

attendance and safety, but, however, he is found to be average and below in matters of team work, leadership, ability to give guidance to subordinates, planning, cooperation with colleagues/superiors and general discipline as he is not able to be an example to others".

"In view of the fact that he has not shown improvement in supervisory qualities, though he is performing well in his assigned work, he is given a final opportunity to come up to expectations of his superiors. His probation is extended finally for three months and if, he does not tune himself to the assigned work in the capacity of a Supervisor, he will be reverted back to the post of D.G. Set Operator. The decision of the Management will be final".

11. From the abovesaid documents it seems that the petitioner has not completed his probation period in a successful manner and therefore, he has been depromoted to his original post vide its order, dated 05-10-2013 (Ex.P43). Furthermore, the appraisal rating report was also filed as Ex.R2 and R3 on the respondent side. On perusal of the Ex.R2 and R3, it is found that this petitioner has been subjected to appraisal rating in a proper and detailed manner as per the format. Hence, the oral evidence of the RW.1, supported by Ex.R2 and R3 would go to show that this petitioner has been properly subjected to appraisal rating and on the basis of the appraisal report only, he has been reverted back to his original position. Hence, this Court come to the conclusion that the reversion order, dated 05-10-2013 (Ex.P43) was proper and correct one. Hence, on that score this Tribunal comes to the conclusion that there is no *mala fideness* in the act of reversion in this case.

12. The petitioner has filed as many as 74 exhibits on his side. The first crucial date in this case is 04-06-2012, the date on which this petitioner has been promoted on probation with six months period initially. The next crucial, date is 29-04-2013 (Ex.P37), the date on which his probation period was extended for three months from 29-04-2013. The next crucial date in this case is 05-09-2013 (Ex.P40), the date on which further extension of three months probation period was ordered by the management. The next crucial date in this case is 05-10-2013 (Ex.P43) the date on which he has been reverted back to his original post. As per the case of this petitioner he has been victimized, as he enlightened the malpractices in the Electrical Engineers Section to higher authorities, which resulted in his demotion/reversion as per order, dated 05-10-2013. Therefore, this Tribunal has to consider the complaints and requests made by this petitioner before 05-10-2013. The documents subsequent to 05-10-2013 are immaterial

as it would not play important role in passing the reversion order by the management. Therefore, the document marked as Ex.P44 to Ex.P74 has no vital role in this case as they were subsequent to 05-10-2013. Before 05-10-2013 this petitioner has given as many as 9 complaints against the superiors, colleagues and juniors. They were marked as Ex.P19, 21, 23, 24, 28, 29, 38, 39 and 41 and they were detailed as below:

- | | |
|---------------------|---|
| Ex.P19 — 07-02-2012 | Complaint to the Chief Engineer against the Electrical Engineer Rajkumar Reddy and the Maintenance Engineer Alexander Mathew. |
| Ex.P21 — 20-04-2012 | Complaints to the Welfare Officer (Employees) against the Chief Engineer. |
| Ex.P23 — 14-05-2012 | Reminder complaints to the Welfare Officer (Employees) against the previous complaint dated 20-04-2012. |
| Ex.P24 — 23-05-2012 | Complaint to the Member-Secretary (Legal Service Authority, Puducherry) against Welfare Officer by name Mathew, Electrical Engineer Rajkumar Reddy and the Maintenance Engineer Alexander Mathew. |
| Ex.P28 — 26-07-2012 | Complaints to the Conciliation Officer, against the Personal Manager Ralph Mathew. |
| Ex.P29 — 06-08-2012 | Complaints to the Chief Engineer against Electrical Engineer Rajkumar Reddy and the Maintenance Engineer Alexander Mathew. |
| Ex.P38 — | Complaint to the Principal/Director against the Superiors, Electrical Engineer Rajkumar Reddy and the Maintenance Engineer Alexander Mathew and against an associate by name Manjini. |
| Ex.P39 — 21-06-2013 | Complaint to the Personal Manager against Electrical Engineer Rajakumar Reddy, Maintenance Engineer Alexander Mathew, Manjini and against the Chief Engineer. |

Ex.P41 — 12-09-2013 Complaint to the Principal against the Chief Engineer by name, Subramani, Electrical Engineer, by name, Rajakumar Reddy, Maintenance Engineer by name Alex Mathew and Personal Manager by name Ralph Mathew.

13. From the abovesaid documents it is clear that he has made several complaints against the others. It would show that, he was not able to have cordial relationship with all sorts of persons. It shows that he was a man of controversy. If, these documents are taken into consideration then definitely he cannot perform his duty as Supervisor in an effective manner. All these documents strengthens that the appraisal made by the respondent management as a valid one. Therefore, appraisal of the management that this petitioner is having lack of team work capability, lack of leadership ability, lack of cooperation with colleagues and superiors, found to be on sound reasons and grounds. Hence, the appraisal done by the respondent management was not only supported by R2 and R3, but, it also get its support from this petitioner side documents itself. Hence, this Tribunal found no error in the order of reversion, dated 05-10-2013.

14. RW.1 has deposed that this petitioner was promoted and depromoted only according to the service rules and no victimization has happened or occurred in this case. Further, he has deposed that the respondent management has its own promotion policy for their employees. Further, he has deposed that the management has supplied the written communication to this petitioner regarding his promoted post of Supervisor's roles and responsibilities. In this aspect this petitioner himself has produced Ex.P25, dated 04-06-2012. It is the promotion order given to this petitioner wherein, it has given details of the roles of the supervisors. Furthermore, RW.1 has deposed that the petitioner was not able to get along with anybody and therefore not able to function as a Supervisor because of bad relationship. He further, deposed that the management had no victimizing intention as it had already given two promotions to this petitioner as Grade-II D.G. Set Operator and Supervisor D.G. Set Operator and no such promotions were given to other four D.G. Set Operator. These evidences would goes to shows that there was no victimized1 intention against this petitioner. Hence, the allegation of victimization found to be a false one.

15. At this juncture, this Court inclined to go through the cross examination of PW.1, wherein, PW.1 has deposed as follows. The vernacular form is extracted;

“DG Operator ஆக கருணாகரன் பணிபுரியும் ஊழியர்களை Electrical Section-ல் உள்ள மற்ற பிரிவிற்கு மாற்றம் செய்வது இல்லை”.

“நான் பணியில் சேர்ந்து காலம் முதல் D.G. Operator என்ற பதவி ஒரு தனித்த ஒரு Section ஆகும். அதற்கு மேலோ அல்லது கீழோ வேறு பதவிகள் அந்த துறையில் கிடையாது”.

“எங்கள் நிறுவனத்தில் இதுவரை D.G. Operator ஆக பணிபுரிந்த எந்த ஒரு தொழிலாளியும் Electrical பிரிவில் Supervisor ஆக பதவி உயர்வு வழங்கியதில்லை. Supervisor D.G. Operator என்ற பதவி எங்கள் நிறுவனத்தில் இதுவரை துரைராஜை தவிர எந்த ஒரு ஊழியருக்கும் இதுவரை வழங்கப்பட்டது இல்லை என்றால் சரிதான்”.

“துரைராஜை என்பவருக்கு Supervisor D.G. Operator என்ற Section-ஐ தவிர்ந்து வேறு எந்த Section-லும் பதவி உயர்வு கொடுப்பதற்கு வாய்ப்பு இல்லை என்று சொன்னால் சரிதான்”.

“திரு. சத்தியநாராயணன் D.G. Operator-ஆக சுமார் பதினைந்து ஆண்டுகளாக துரைராஜிக்கு இணையாக பணியில் உள்ளார். திரு. சத்தியநாராயணன் அவர்கள் முதலில் Office Assistant-ஆக சேர்ந்தார். ஆவர் எந்த ஆண்டு Office Assistant-ஆக வந்தார் என்று எனக்கு தெரியாது. ஆனால் D.G. Operator-ஆக அவர் அந்த பதவிக்கு விண்ணப்பம் செய்து அதன்பிறகு பணிக்கு வந்தார் D.G. Operator-ஆக வந்த பிறகு அவருக்கு இந்தாள் வரை எந்த பதவி உயர்வும் வழங்கப்பட்டது இல்லை”.

“இந்த இரு பதவி உயர்வுகளை D.G. Set Operation Section-ல் பணிபுரியும் மற்ற எந்த ஊழியருக்கும் வழங்கப்பட்டது இல்லை என்று சொன்னால் சரிதான். Probation-ஆக வழங்கப்படும் பணிகள் தற்காலிகமானது அச்சமயத்தின் போது சிரவாகம் பணியாளரின் பணிகளை மேற்பார்வையிட்டு சரியாக இருக்கும் பட்சத்தில் தான் மேற்கண்ட முடிவுகள் எடுப்பார்கள் என்றால் சரிதான். Probation காலத்தில் சரியாக பணிபுரியவில்லை என்று குறிப்பிட்டு எதிர்மனுதாரர் நிர்வாகத்தால் கடிதம் கொடுக்கப்பட்டு Probation Period நீட்டிப்பு செய்யப்பட்டது என்றால் சரிதான். 05-10-2013 தேதியில் துரைராஜின் பணிகள் Probation காலத்தில் சரியாக அமையாத காரணத்தால் அவரை மீண்டும் D.G. Set Operator-ஆக பணி வழங்குவதாக உத்தரவு கொடுக்கப்பட்டது. துரைராஜ் கொடுத்த பலகடிதங்களில் மேலதிகாரிகள் மீதும், Personal Officer மீதும் சக ஊழியர்கள் மீதும் குற்றசாட்டுக்களை சொல்லியிருக்கிறார் என்றால் சரிதான்”.

“D.G. Operator Section-ல் பணிபுரியும் மற்றவர்களுக்கு வழங்கப்பட்ட சலுகைகளை விட துரைராஜிக்கு அதிகப்படியான சலுகைகள் வழங்கப்பட்டது என்றால் சரிதான். ஆனால் புரோமோஷனுக்கு ஏற்ற சம்பளம் வழங்கப்படவில்லை, D.G. Operator Section தற்போது Supervisor என்ற பதவி இல்லை”.

16. Similarly, the petitioner/PW.2 has also admitted the following facts in his cross examination. The vernacular version of the same is extracted hereunder:

“எதிர்மனுதாரர் நிர்வாகத்தில் எனக்கு முன்போ, எனக்கு பின்போ கிரேடு 2 மற்றும் கிரேடு 3 பதவியில் யார் யார் இருந்தார்கள் என்ற விவரத்தை வழக்கில் குறிப்பிடவில்லை என்று சொன்னால் சரிதான். நான் 15 ஆண்டு காலம் எதிர்மனுதாரர் நிர்வாகத்தில் பணியில் இருந்தவரை எனக்கு Supervisor-ஆக பதவி உயர்வு கொடுப்பதற்கு முன்பு வேறொருவருக்கும் அவ்வாறு பதவி உயர்வு கொடுக்கப்படவில்லை என்றால் சரிதான். எனக்கு மட்டுமே 2012- ஆம் ஆண்டில் Supervisor என்ற பதவி உயர்வு கொடுக்கப்பட்டது. எனக்கு Supervisor என்ற பதவி உயர்வு கொடுத்த பிறகும் எனக்கு அப்பதவியை திரும்ப பெற்ற பிறகும் நிர்வாகத்தால் இந்நாள் வரை வேறொருவரை Supervisor-ஆக D.G. Operator பிரிவில் பணி உயர்வு வழங்கப்படவில்லை என்றால் சரிதான். எனக்கு Supervisor-ஆக பதவி உயர்வு கொடுக்கும் போதே 6 மாத காலத்திற்கு probation அமைப்படையில் தான் பதவி உயர்வு கொடுத்தார்கள். அந்த probation இரு முறை 3 மாத காலத்திற்கு நிர்வாகத்தால் நீடிக்கப்பட்டது என்றால் சரிதான் ”.

“Supervisor என்ற பதவியின் முக்கியமான வேலை திறனே மற்றவர்களை சரிப்பட வேலை வாங்குவதும் மற்றவர்களுடன் ஏற்படுத்திக்கொள்ளும் அணுகுமுறைகளும் தான் என்று சொன்னால் சரிதான். எனக்கு 2வது முறை probation-ஐ நீடிக்கும் போது நிர்வாகத்தால் கொடுக்கப்பட்ட 05-09-2013 தேதியிட்ட உத்தரவில் எனது Performance Report குறித்து இவ்வாறு காணப்பட்டுள்ளது என்றால் சரிதான்”. “From the performance report Mr. Doureradjou is found to be good in his work, dependability, communication, initiatives, adaptability, dress code, attendance and safety, but however, he is found to be average and below in matters of team work, leadership, ability to give guidance to subordinates, planning, cooperation with colleagues/ superiors and general discipline as he is not able to be an example to others”.

“தற்சமயம் நிர்வாகத்தால் D.G. Operator பிரிவில் Supervisor என்ற ஒரு பதவி எனக்கு வழங்கியதை தவிர வேறொரு காலக்கட்டத்திலும் இருந்தது இல்லை என்று சொன்னால் சரிதான்”.

17. From the abovesaid evidence it is clear that this petitioner alone was promoted as D.G. Set Operator Grade-II and then Supervisor D.G. Set Operator. Before and after him, nobody was promoted like that of this petitioner. It is also clear that at present no such post was inexistence. It is also clear that the promotion opportunities were given to this petitioner only. Hence, on perusal of the abovesaid evidence this Court come to the conclusion that there was no *mala fide* intention against this petitioner and he was given privilege of promotion, even then this petitioner was not able to save the same in his probation period by working up to the satisfaction of the management. So, this Court come

to the conclusion even for argument sake, if this petitioner is consider to be fit person for the post of Supervisor, it cannot be ordered as there is no post inexistence at present. Furthermore, this petitioner seeks promotion as a matter of right. At this juncture, the citation reported in 2019-LLJ-595 (Madras) produced on the side of the respondent was taken into consideration. The abovesaid citation was reported in the case of Kannaiya Kumar Vs. State of Tamil Nadu, Repd. by the Chief Engineer (Personnel), Agriculture Engineering Department and others, wherein, it is held that the petitioner cannot sought regularization in a post in which he was continuing to work, but as there is no sanctioned post, the claim of the petitioner was dismissed. Here, in this case also no sanctioned post of Supervisor D.G. Set Operator is available in the respondent Management. Here, also this petitioner seeking regularization/confirmation/promotion to the abovesaid posts. Hence, as per the abovesaid reported judgment he cannot be regularized/confirmed to the post of Supervisor D.G. Set Operator as there is no sanction post of Supervisor/D.G. Set Operator is available.

18. Further, the respondent has filed another judgment reported in CDJ 1987 SC 737 wherein, it has been held that “where the State Government or Statutory Authority is under an obligation to promote an employee to an higher post which has to be filled up by selection, the State Government or the Statutory Authority alone should be directed to consider the question whether the employee is entitled to be so promoted and that the Court should not ordinallv issued a writ to the Government or Statutory Authority to promote an officer straightway. Here, in this case also this petitioner filed this Industrial Dispute seeking a direction to the respondent management for promotion/ confirmation. As per the abovesaid citation, such a direction cannot be issued by this Tribunal. Further, in the abovesaid citation, the selection committee did not find the respondent fit for promotion on all such occasion. Here, in this case also the appraisal team has evaluated this petitioner twice as per Ex.R2 and R3, and as per the Ex.R2 and R3, he has scored 68.15 % only. It was not up to the satisfaction of the respondent management. As per the citation, this Court has no power to direct this respondent to get satisfaction with that abovesaid score. Therefore, as per the abovesaid citation also this Court cannot interfere in the evaluation and it cannot direct the respondent to promote this petitioner, as it is the area where the respondent alone has amble power to fix the criteria for promotion. Hence, on that score, this Court was not unable to order for giving such direction as prayed for by the petitioner.

19. Further, the respondent side Counsel has filed a judgment reported in CDJ 2016 DHC 558 and the abovesaid citation was the judgment rendered in the case of *Saraswathy Vs. Press Trust of India* and another, in the above said case also the employee/claimants probation period was. extended twice. In the abovesaid case also the note/details listed out the short comings of the employee based on which the claimant was dismissed from service. The appeal filed by the claimant was also dismissed by the Hon'ble Delhi High Court. Here, in this case also this petitioner was subjected to extension of probation for two times. Here, in this case also, as per the appraisal team report he was not up to the satisfaction of the management. Hence, if, we consider the present case with the facts in the abovesaid citation, the claim of this petitioner becomes unfit to allow. Further, the respondent side Counsel filed the judgment reported in CDJ 1995 Bihar High Court 175, wherein the Hon'ble High Court has clearly held that, "there can be no doubt that the promotions which Industrial employees are entitled normally would be treated as the function of the management and so even the National Industrial Tribunal recognized that it must be left to the discretion of the management to select persons for promotions". As per the abovesaid citation this Tribunal has no power to interfere with the appraisal rating done by its expert committee for promotion on the basis of the service rules.

20. The next limb of argument put forth by the respondent Counsel is that this petitioner was not a workman and therefore, he has no *locus standi* to file this petition before this Tribunal. The petitioner in this case has been reverted from in the post of Supervisor DG Set Operator to the post of Grade-II D.G. Set Operator. Further admittedly, this petitioner has been reverted back, to his original position as Grade-II D.G. Set Operator on 05-10-2013, therefore this petitioner becomes workman on and from 05-10-2013 and he cannot be consider as a Supervisor and therefore, this petitioner is entitled to file this claim petition before this Tribunal as a workman. Therefore, the argument advanced in that score is rejected in total.

21. The next limb of argument that was advanced by the respondent Counsel was that the reference made by the Government of Puducherry to this Labour Court is invalid as the matter involved in this case, related to Industrial Tribunal. Admittedly, the dispute involved in this case related to promotion/confirmation which comes under the category of gradation, which has to be dealt as Industrial Tribunal matter. Though the Government of Puducherry has referred the matter to the Labour Court and it has been numbered as Industrial Dispute (L), the entire matter was dealt as a

matter involved in Industrial Tribunal and as this Court is functioning as Industrial Tribunal also, it cannot be said that this Court is not having power to deal with this matter. Further, the entire matter is dealt as an industrial dispute under the Tribunal power, and no prejudice was caused to this respondent and therefore, the argument put forth on that score also rejected in total.

22. As per the judgment reported in CDJ 1996 Alahabad High Court in 054, a promotion cannot be claimed as a matter of right, at the same time, the claimant can seek a direction for consideration for promotion, if, he holds necessary education and Academic Qualifications. Further, in the abovesaid judgment the Hon'ble High Court has directed the management to give the difference of pay during the period, the claimant hold the promoted post, if, not paid already. Here, in this case also, this petitioner has deposed that he has not been given salary in the scale of Supervisor D.G. Set Operator on probation. Hence, as per the abovesaid judgment if the petitioner was not paid the relevant Scale of Pay in the cadre of Supervisor D.G. Set Operator on probation, he could very well apply for the same before the management and the management is hereby directed to pay the salary dues if any, in the scale of Supervisor D.G. Set Operator on probation as early as possible, if, it was not paid already.

23. In the result, the Industrial Dispute raised by this petitioner against the management stands dismissed and the reversion order made by the management is decided as justified. This petitioner was entitled for the salary dues if any, in the scale of Supervisor D.G. Set Operator on probation for the period from 04-06-2012 to 05-10-2013. No Cost.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this 26th day of November, 2019.

V. PANDIARAJ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

List of petitioner's witnesses:

- PW.1 — 24-01-2017 Subrayan
PW.2 — 12-09-2019 Doureradjou

List of petitioner's exhibits:

- Ex.P1 — 18-02-2016 Original letter of authorization to Mr. V. Subrayan, petitioner's Union consultant and Ex. Secretary.

Ex.P2 — April 1990	Copy of the S.S.L.C. Certificate of the petitioner.	Ex.P14 — 02-12-2002	Copy of Order of D.G. Set Operator of the petitioner issued by PIMS.
Ex.P3 — March 1992	Copy of the H.S.C. Certificate of the petitioner.	Ex.P15 — 05-02-2010	Copy of Confirmation Order for D.G. Set Operator of petitioner, issued by PIMS.
Ex.P4 — 06-01-1994	Copy of the I.T.I. (Mechanic Motor Vehicles) Certificate of the petitioner.	Ex.P16 — 06-07-2011	Copy of Recommendation letter for promotion given by the Engineers, PIMS to the petitioner.
Ex.P5 — May 1996	Copy of the I.T.I. (Apprentice), Certificate of the petitioner.	Ex.P17 — 22-08-2011	Copy of Promotion Order for D.G. Set Operator Grade-III to Grade-II, issued by PIMS of the petitioner.
Ex.P6 — 27-04-2007	Copy of the Diploma Certificate (Electrical Wiring) Community Polytechnic, Pondicherry, of the petitioner.	Ex.P18 — 26-12-2011	Copy of the requisition letter given by the petitioner to the Chief Engineer and Personal Manager, PIMS for the purpose of General Shift and Weekly off for Sunday.
Ex.P7	Copy of the Diploma Certificate (Electrical and Electronics) Karnataka Open University (4 series) of the petitioner dated 19-10-2013, 20-06-2014, 11-11-2014 and 21-07-2015.	Ex.P19 — 07-02-2012	Copy of letter, given by the petitioner to the Chief Engineer, PIMS to conduct the enquiry about the illegal promotion to the staffs.
Ex.P8 — 31-03-1995	Copy of the Helper Experience Certificate of the petitioner issued by Anand Automobiles, Pondicherry.	Ex.P20 — 21-03-2012	Copy of the complaint given by the petitioner to the Chief Engineer, PIMS.
Ex.P9 — 21-02-1997	Copy of the Generator Operator, Bonafide-cum-Experience Certificate of the petitioner issued by Indian Oil Corporation, Bangalore.	Ex.P21 — 20-04-2012	Copy of the letter given by the petitioner to the Personal Manager, Principal and Finance Controller against the malpractices done by the Department.
Ex.P10 — 05-09-2001	Copy of the Generator Operator, Experience Certificate of the petitioner, issued by Supreme Industries Ltd., Pondicherry.	Ex.P22 — 14-05-2012	Copy of the requisition given by the petitioner to the Personal Manager, PIMS for Salary enhancement of Grade II.
Ex.P11 — 06-11-1998	Copy of the Generator Training Experience Certificate of the petitioner issued by Cummines India Ltd., Pune.	Ex.P23 — 14-05-2012	Copy of letter given by the petitioner to the Chief Engineer, PIMS to take action against the Engineer who done the
Ex.P12 — 05-04-2002	Copy of the Generator Operator Experience Certificate of the petitioner issued by Bharath Diesel Sales and Service, Pondicherry.	Ex.P24 — 23-05-2012	Copy of the letter given by the petitioner before the Lok Adalat, Puducherry.
Ex.P13 — October 2011 to June and October 2015	Copy of Blood Bonation Volunteer Certificate 2015 of the petitioner issued by G.H., Pondicherry (6 series).	Ex.P25 — 04-06-2012	Copy of Order issued by the PIMS to the petitioner.

Ex.P26 — 06-06-2012	Copy of letter submitted by the petitioner before the Conciliation Officer.	Ex.P40 — 05-09-2013	Copy of the order of the Extension of Probation period against the law.
Ex.P27 — 22-06-2012	Copy of the Lok Adalat Order No.1828/2012 dated 22-06-2012.	Ex.P41 — 12-09-2013	Copy of the letter submitted by the petitioner to the Principal, PIMS, the Engineers and Personal Manager were taking revenge action against him.
Ex.P28 — 26-07-2012	Copy of the Reminder letter submitted by the petitioner to the Conciliation Officer.	Ex.P42 — 23-09-2013	Copy of the letter submitted by the workers of the petitioner's Department to the Principal.
Ex.P29 — 06-08-2012	Copy of letter submitted by the petitioner to the Chief Engineer, PIMS for demanding Sunday Off.	Ex.P43 — 05-10-2013	Copy of the Reversion order of the petitioner.
Ex.P30 — 09-08-2012	Copy of the Training Programme Nomination list issued by the PIMS.	Ex.P44 — —	Copy of the mistakes (10 series) done with the knowledge of the Department Engineer.
Ex.P31 — 12-02-2014	Copy of the Department eligibility workers list.	Ex.P45 — 03-01-2014	Copy of the Legal Notice.
Ex.P32 — 21-12-2012	Copy of the Conciliation Proceedings, dated 19-10-2012, 25-10-2012, 02-11-2012, 06-11-2012, 09-11-2012, 15-11-2012, 10-12-2012, 12-12-2012 and 21-12-2012.	Ex.P46 — 12-02-2014	Copy of the Workers Educational Qualification was published through Internet by the PIMS.
Ex.P33 — 05-01-2013	Copy of the notice issued by the Personal Manager of the respondent to all the HoDs and Trade Union.	Ex.P47 — 13-01-2014	Copy of the Reply notice for the Legal Notice.
Ex.P34 — 21-01-2013	Copy of the complaint given to the Chief Engineer by the petitioner.	Ex.P48 — 24-02-2014	Copy of the Requisition letter submitted by the petitioner to the Management for Salary.
Ex.P35 — 31-01-2013	Copy of the warning issued by the Personal Manager for getting bribe for obtaining job.	Ex.P49 — 01-04-2014	Copy of the letter submitted by the petitioner's Union to the Labour Officer (Conciliation).
Ex.P36 — March 2013	Copy of the Uniform list of the Supervisors issued by the PIMS.	Ex.P50 — 19-04-2014	Copy of the Reply given by the PIMS to the Labour Officer (Conciliation), Puducherry.
Ex.P37 — 03-05-2013	Copy of the order of the Extension of Probation period against law.	Ex.P51 — 02-05-2014	Copy of the letter submitted by the petitioner to the Personal Manager, PIMS for taking action against the threatened.
Ex.P38 — 06-06-2013	Copy of the letter submitted by the petitioner to the Principal for taking action against the Manjini (Electrician).	Ex.P52 — 12-05-2014	Copy of the letter submitted by the petitioner to the higher authorities, PIMS for taking action against the Vasanthakumar (Electrician).
Ex.P39 — 21-06-2013	Copy of the letter submitted by the petitioner to the Personal Manager and Finance Controller for taking action against the Manjini (Electrician).	Ex.P53 — 09-06-2014	Copy of the Reply Notice of the petitioner.

Ex.P54 — 07-10-2014 Copy of the Conciliation failure report.

Ex.P55 — 01-10-2014 Copy of the memo issued to the petitioner by the Personal Manager.

Ex.P56 — 15-10-2014 Copy of the Reply for the memo.

Ex.P57 — 01-12-2014 Copy of the letter submitted by the petitioner to the Department Engineer, PIMS for taking action against the threatened through intercom.

Ex.P58 — 23-12-2014 Copy of the memo issued to the petitioner by the Personal Manager to attend the Enquiry Panel.

Ex.P59 — — Copy of the complaint given to the Chairman, Madras Medical Mission against the Electrical Engineer, by the President, Anumanthai Panchayat Union and the copy of the Paper Publication, dated 21-08-2014.

Ex.P60 — — Copy of the complaint given by the Gurunathan, to the Senior Electrical Engineer, regarding the break open of the door.

Ex.P61 — 23-03-2015 Copy of Reminder letter.

Ex.P62 — 31-02-2015 Copy of Enquiry completion information letter.

Ex.P63 — 20-04-2015 Copy of the letter submitted by the Gurunathan to take action against the Kathirvel.

Ex.P64 — 22-07-2015 Copy of the Memo issued by the PIMS to the petitioner.

Ex.P65 — 01-09-2015 Copy of the Reply for the memo.

Ex.P66 — — Audio CD

Ex.P67 — — Audio CD.

Ex.P68 — 05-10-2015 Copy of the Warning Memo issued by the PIMS to the petitioner.

Ex.P69 — 08-02-2016 Copy of the Requisition letter given by the petitioner's union for obtaining records.

Ex.P70 — 26-12-2011 Copy of the Form-C, Certificate and Registration of Petitioner's Trade Union.
27-07-2015

Ex.P71 — 23-03-2016 Copy of Appreciation letter issued by the Respondent Management to Mr. S. Doureradjou.

Ex.P72 — 05-10-2016 Copy of memo issued by the Respondent Management to Mr. Balaraman, Plumber.

Ex.P73 — 25-11-2016 Copy of the letter given by the Deputy Labour Commissioner-PIO, Labour Department, Puducherry to Mr. V. Subrayan and S. Doureradjou.

List of respondent's witness:

RW.1 — 08-12-2017 Isaiah

List of respondent's exhibits:

Ex.R1 — — Copy of the service rules of the respondent's institution.

Ex.R2 — 26-04-2013 Copy of the performance appraisal of petitioner.

Ex.R3 — 29-08-2013 Copy of the performance appraisal of petitioner.

Ex.R4 — 06-01-2014 Copy of reply notice to legal notice, dated 03-01-2014 issued by petitioner.

Ex.R5 — 22-08-2014 Copy of the complaint given by the Chief Engineer against the petitioner for non-cooperation with other staffs in the shift.

Ex.R6 — 03-09-2014 Copy of the charge memo issued by the respondent to petitioner for his disobedience under the service rules of respondent's institution.

Ex.R7 — 10-09-2014 Copy of the letter given by the petitioner seeking Tamil version of the charge memo, dated 03-09-2014.

Ex.R8 — 01-10-2014 Copy of the Tamil version of the charge memo, dated 03-09-2014.

Ex.R9 — 07-10-2014 Copy of the complaint given by the one Mr. Kathirvel and Mr. Selvam to respondent against petitioner.

Ex.R10 — 09-10-2014 Copy of the complaint given by the Chief Engineer against the petitioner for non cooperation and not attending the complaints calls from the other Departments.

Ex.R11 — 03-11-2014 Copy of complaints given by all the Electrical staffs against the petitioner.

Ex.R12 — 23-12-2014 Copy of the complaint given by one Mr. Antony doss from Electrical Department against the petitioner.

V. PANDIARAJ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

AFFIDAVIT

I, Gracy @ Grace Catherine, wife of Morris Antony, Christian, aged about 68 years and residing at No. 73, Kamarajar Salai, V.V.P. Nagar, Thattanchavady, Puducherry-605 009, do hereby solemnly and sincerely affirm and state as follows:

That I am the deponent herein and well acquainted with the facts of the case. I submit that I was born to my parents on 05-11-1946 and I completed my S.S.L.C. (Academic) Certificate and in which my name has been mentioned as 'Grace Catherine' and I got married at Puducherry, the same was Registered at Pondicherry Municipality, Pondicherry and also got Livert De Family Book under No. 173 by the Pondicherry Municipality (Etat Civil, Pondicherry) and in which my name has been mentioned as 'Gracy'. Further, I submit that I was employed in St. Antony's Government Aided School at Puducherry and retired from the service, thus, receiving pension from the Government and in which my name is mentioned as 'Grace Catherine'.

I got Permanent Account Number (PAN) from the Income-tax Department in which my name has been mentioned as 'Grace Catherine'. I got Passport from Government of India *vide* Passport No. J2481191 and in which my name is mentioned as 'Grace Catherine'. I got Membership Card in REPCO Bank and in which my name has been mentioned as 'Grace Catherine'.

Further, I submit that I am blessed with one male child by name called Andrew Gerard who was born on 10-07-1989, his birth was duly registered at Pondicherry Municipality, Puducherry and in which my name has been mentioned as 'Gracy', my son got Confirmation Certificate in the Register of Our Lady Fatima Church, Thattanchavady, Puducherry-605 009 and in which my name has been mentioned as 'Grace Catherine', and my son got Baptism Certificate at Assumption Church, Nellithope, Puducherry and in which my name has been mentioned as 'Gracy'.

Further, I submit that in my Voter's Identity Card issued by the Election Commission of India *vide* No. PY/01/019/090515; in my Aadhaar Card *vide* No. 3692 4775 9849 issued by Unique Identification Authority of India, and in my Family Ration Card issued by the Department of Civil Supplies and Consumer Affairs, Government of Puducherry *vide* Card No. 140496 in all three abovesaid records, my name has been mentioned as 'Grace Catherine' and 'கிரேஸ்கேதரின்'.

Further, I declare that the above-mentioned names, in the different documents *viz.*, 'Gracy', 'Grace Catherine' and 'கிரேஸ்கேதரின்' are referred one and the same person of myself only.

I state that what are all stated in the above paragraphs is true and correct to the best of my knowledge, belief and information.

Solemnly affirmed and signed before the Notary Public at Puducherry, on this 19th day of March 2020.

342658

A. GRACE CATHERINE.

No legal responsibility is accepted for the publication of advertisement regarding change of names and other private notifications in the Gazette. Persons notifying the same will remain solely responsible for the legal consequences and also for any other misrepresentations, *etc.*